P.R. 4-3 – Joint Claim Construction and Prehearing Statement Appendix 1 – Parties' Proposed Construction for Claim Terms

U.S. Patent No. 7,628,333

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
Order of steps (claim 11)	Plain and ordinary meaning. No construction	Steps must be performed in the order written
	necessary because there is no particular order	
	of steps recited or required except where	Intrinsic Evidence
	expressly causally limited in the claim.	'333 Patent, Title; Abstract; 1:9–11; 1:54–
		56; 1:61–2:2; 2:4–14; 2:43–45; 2:50–67;
	Evidence	3:6–13; 3:16–21; 3:28–49; 3:54–59; 5:5–32;
	Claim 11; Fig. 1; Fig. 3; 6:42-9:56; '294	5:33–39; 6:4–26; 6:42–7:3; 7:4–14; 7:15–29;
	Prosecution History, March 27, 2012	7:41–43; 7:64–8:5; 8:24–31; 8:32–41; 8:42–
	Amendment and Applicant Arguments, at p.	50; 8:51–63; 9:4–11; 9:12–17; Claims 1, 10,
	12; '294 Prosecution History, October 26,	11; and 13.
	2012 Amendment and Applicant Arguments,	
	at p. 15.	'333 Patent File History, 6/16/2009 Non-
		Final Rejection including at 3–4; 7/21/2009
	G. Holdings may rely upon the testimony of	Notice of Allowance including at 4–5, 6–7.
	its expert, Ravin Balakrishnan, Ph.D., to	
	explain the technology, the state of the art, the	Extrinsic Evidence
	meaning of the claim terms as they would be	Random House Webster's Unabridged
	understood by a person of skill in the art, and	Dictionary (2 nd Edition) (2001) including at
	the proper construction of various claim	2093.
	terms. G. Holdings may also rely on Dr.	****
	Balakrishnan to respond to Defendants' claim	Webster's Third New International
	construction proposals or positions of the	Dictionary, Unabridged (2002) including at
	Defendants' expert(s) and/or witnesses.	2517-18
		Defendants may rely on Dr. Robert Akl to
		respond to Plaintiff's claim construction
		positions and any testimony of Plaintiff's
		expert witnesses
"a data conveyance switching	No construction necessary. Alternatively,	Governed by 35 U.S.C. § 112(6)
element said switching element		

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
being in an activated state upon an	"hardware connected to and/or software	Indefinite due to absence of corresponding
activation cue having been received	running on an electronic circuit that provides	algorithm in the specification under 35
by said data transceiver, and being in	switching functionality to enter into a	U.S.C. §§ 112(2), 112(6).
an inactive state when no activation	different state for conveying data."	
cue was received by said data		<u>Function</u> : being in an activated state upon an
transceiver" (Claim 1)	Not governed by 35 U.S.C. \S 112, \P 6.	activation cue having been received by said
		data transceiver, and being in an inactive
	To the extent the Court determines the phrase	state when no activation cue was received by
	is governed by 35 U.S.C. § 112, ¶ 6:	said data transceiver
	Structure: hardware connected to and/or	Structure: a decisional logical circuit or a
	software running on an electronic circuit	series of instructions programmed onto a
		microchip or a processor/general purpose
	Function: provides switching functionality to	computer/microcontroller
	enter into a different state for conveying data	
	· -	Algorithm: None
	Evidence	
	Fig. 2; 6:4-26; 6:43-7:29; 8:24-31; 8:51-9:25;	OR
	Amendment and Applicant Arguments, at p.	
	12; '294 Prosecution History, October 26,	"data conveyance switching element" shall
	2012 Amendment and Applicant Arguments,	be construed to mean "element that changes
	at p. 15	between two alternate data conveyance
	C. Haldings may palty your the testimony of	states"
	G. Holdings may rely upon the testimony of	Intuingia Evidanaa
	its expert, Ravin Balakrishnan, Ph.D., to explain the technology, the state of the art, the	<u>Intrinsic Evidence</u> '333 Patent, FIGS. 1–3; 1:64–2:14; 2:28–34;
	meaning of the claim terms as they would be	2:50–67; 3:28–31; 3:35–48; 3:54–59; 4:24–
	understood by a person of skill in the art, and	30; 6:4–17; 6:18–26; 6:42–51; 6:52–65;
	the proper construction of various claim	7:24–29; 8:24–31; 8:51–63; 9:4–11; 9:12–
	terms. G. Holdings may also rely on Dr.	25; Claims 1, 7, 8, 9, 10, 11, and 13.
	Balakrishnan to respond to Defendants' claim	25, 51411115 1, 7, 6, 7, 10, 11, 4114 15.

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
	construction proposals or positions of the	'333 Patent File History, 6/16/2009 Non-
	Defendants' expert(s) and/or witnesses.	Final Rejection including at 2–4;
		7/21/2009 Notice of Allowance including at
		6–7.
		Extrinsic Evidence
		Random House Webster's Unabridged
		Dictionary (2 nd Edition) (2001) including at
		1924
		Webster's Third New International
		Dictionary, Unabridged (2002) including at 2313
		2313
		McGraw-Hill Dictionary of Scientific and
		Technical Terms (6 th Edition) (2003)
		including at 2083
		Missass & Judesman & O. Nisterra deina Districtura
		Microsoft Internet & Networking Dictionary (2003) including at 246
		(2003) including at 240
		Expert testimony from Dr. Robert Akl
		Defendants may also rely on Dr. Robert Akl
		to respond to Plaintiff's claim construction
		positions and any testimony of Plaintiff's
		expert witnesses
"a switching element being in a	No construction necessary. Alternatively,	Governed by 35 U.S.C. § 112(6)
default inactive state if an	"switching element" means "hardware	2 - 1 - 1 - 1 - 2 - 2 - 2 - 2 - 2 - 2 -
activation cue is received at one of	connected to and/or software running on an	
said communication ports, changing	electronic circuit that provides switching	

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
the state of said switching element	functionality to enter into a different state for	Indefinite due to absence of corresponding
from its default inactive state to an	conveying data."	algorithm in the specification under 35
activated state" (Claims 11 and 13)		U.S.C. §§ 112(2), 112(6).
	Not governed by 35 U.S.C. § 112, ¶ 6.	
		<u>Function</u> : being in a default inactive state
	To the extent the Court determines the phrase	and, if an activation cue is received at one of
	is governed by 35 U.S.C. § 112, ¶ 6:	said communication ports, changing the state
		of said switching element from its default
	Structure: hardware connected to and/or software running on an electronic circuit	inactive state to an activated state
		Structure: a decisional logical circuit or a
	Function: provides switching functionality to	series of instructions programmed onto a
	enter into a different state for conveying data	microchip or a processor/general purpose
		computer/microcontroller
	Evidence	
	Fig. 2; 6:4-26; 6:43-7:29; 8:24-31; 8:51-9:25;	Algorithm: None
	'294 Prosecution History, March 27, 2012	
	Amendment and Applicant Arguments, at p.	OR
	12; '294 Prosecution History, October 26,	
	2012 Amendment and Applicant Arguments,	"switching element" shall be construed to
	at p. 15.	mean "element that changes between two
		alternate states"
	G. Holdings may rely upon the testimony of	T 4 * * T * 1
	its expert, Ravin Balakrishnan, Ph.D., to	Intrinsic Evidence
	explain the technology, the state of the art, the	'333 Patent, FIGS. 1–3; 1:64–2:14; 2:28–34;
	meaning of the claim terms as they would be	2:50–67; 3:28–31; 3:35–48; 3:54–59; 4:24–
	understood by a person of skill in the art, and	30; 6:4–17; 6:18–26; 6:42–51; 6:52–65;
	the proper construction of various claim	7:24–29; 8:24–31; 8:51–63; 9:4–11; 9:12–
	terms. G. Holdings may also rely on Dr.	25; Claims 1, 7, 8, 9, 10, 11, and 13.
	Balakrishnan to respond to Defendants' claim construction proposals or positions of the	2222 Potent File History 6/16/2000 Non
	± ± ±	'333 Patent File History, 6/16/2009 Non-
	Defendants' expert(s) and/or witnesses.	Final Rejection including at 2–4;

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
		7/21/2009 Notice of Allowance including at
		6–7.
		Extrinsic Evidence
		Random House Webster's Unabridged
		Dictionary (2 nd Edition) (2001) including at
		1924
		Webster's Third New International
		Dictionary, Unabridged (2002) including at
		2313
		McGraw-Hill Dictionary of Scientific and
		Technical Terms (6 th Edition) (2003)
		including at 2083
		Microsoft Internet & Networking Dictionary
		(2003) including at 246
		(2003) including at 240
		Expert testimony from Dr. Robert Akl
		Defendants may also rely on Dr. Robert Akl
		to respond to Plaintiff's claim construction
		positions and any testimony of Plaintiff's
61	NT 4 C NT 4 11	expert witnesses
"data exchange device" (Claims 1 and 11)	No construction necessary. Not governed by	Governed by 35 U.S.C. § 112(6)
allu 11)	35 U.S.C. § 112, ¶ 6.	Function: exchanging data
	To the extent the Court determines the phrase	1 unction. exchanging data
	is governed by 35 U.S.C. § 112, ¶ 6:	Structure: an electronic circuit and a data
		transceiver able to cooperate with a
	Structure: external data exchange device	transceiver, including a portable electronic

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
	Function: communicates with the portable electronic device and provide data upload and/or download	device, a computer, and an interface machine such as an automatic teller machine OR
	Evidence Fig. 1; Fig. 3; 4:14-16; 5:44-6:3; 6:59-9:56; '294 Prosecution History, March 27, 2012 Amendment and Applicant Arguments, at p. 12; '294 Prosecution History, October 26,	"data exchange device" shall be construed to mean "an apparatus that sends and receives data" Intrinsic Evidence
	2012 Amendment and Applicant Arguments, at p. 15. G. Holdings may rely upon the testimony of	'333 Patent, FIGS. 1–3; 1:64–2:14; 2:35–67; 3:22–48; 3:64–4:9; 4:14–18; 5:44–46; 5:47–54; 5:55–59; 5:64–6:4; 6:52–7:3; 7:4–13; 7:14–29; 7:35–41; 7:55–8:31; 8:42–50;
	its expert, Ravin Balakrishnan, Ph.D., to explain the technology, the state of the art, the meaning of the claim terms as they would be	8:51–63; 8:65–9:3; 9:12–25; 9:26–56; Claims 1, 10, 11, and 12.
	understood by a person of skill in the art, and the proper construction of various claim terms. G. Holdings may also rely on Dr. Balakrishnan to respond to Defendants' claim	'333 Patent File History, 6/16/2009 Non-Final Rejection including at 3–4; 7/21/2009 Notice of Allowance including at 2, 6–7.
	construction proposals or positions of the Defendants' expert(s) and/or witnesses.	Extrinsic Evidence Random House Webster's Unabridged Dictionary (2 nd Edition) (2001) including at 675
		Webster's Third New International Dictionary, Unabridged (2002) including at 792
		Expert testimony from Dr. Robert Akl

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
		Defendants may also rely on Dr. Robert Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert witnesses
"invariable activation command" (Claims 1 and 11)	"a state-dependent command that is issued in response to the control device input"	"a command initiating one of two alternate data conveyance operations"
	Evidence 5:5-39; 7:4-54; 8:32-63; '294 Prosecution History, March 27, 2012 Amendment and Applicant Arguments, at p. 12; '294 Prosecution History, October 26, 2012 Amendment and Applicant Arguments, at p. 15. G. Holdings may rely upon the testimony of its expert, Ravin Balakrishnan, Ph.D., to explain the technology, the state of the art, the meaning of the claim terms as they would be understood by a person of skill in the art, and the proper construction of various claim terms. G. Holdings may also rely on Dr. Balakrishnan to respond to Defendants' claim construction proposals or positions of the Defendants' expert(s) and/or witnesses.	Intrinsic Evidence '333 Patent, Title; Abstract; 1:9–11; 1:44– 45; 1:54–56; 2:4–14; 2:43–45; 2:56–67; 3:6– 8; 3:16–21; 3:39–49; 5:5–12; 5:33–39; 6:42– 59; 7:4–14; 7:15–29; 7:41–54; 8:32–41; 8:42–63; Claims 1, 10, and 11 '333 Patent File History, 6/16/2009 Non- Final Rejection including at 3–4; 7/21/2009 Notice of Allowance including at 6–7. Extrinsic Evidence Random House Webster's Unabridged Dictionary (2 nd Edition) (2001) including at 1003 Webster's Third New International Dictionary, Unabridged (2002) including at 1188 Defendants may rely on Dr. Robert Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert witnesses

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
"upon" (Claim 1)	Plain and ordinary meaning. No construction necessary. Evidence Fig. 1; Fig. 3; 6:42-9:56; ; '294 Prosecution	Plain and ordinary meaning (<i>i.e.</i> , "when") Intrinsic Evidence '333 Patent, Title; Abstract; 1:9–11; 1:54– 56; 1:61–2:2; 2:4–14; 2:43–45; 2:50–67;
	History, March 27, 2012 Amendment and Applicant Arguments, at p. 12; '294 Prosecution History, October 26, 2012 Amendment and Applicant Arguments, at p. 15.	3:6–13; 3:16–21; 3:28–49; 3:54–59; 5:5–32; 5:33–39; 6:4–26; 6:42–7:3; 7:4–14; 7:15–29; 7:41–43; 7:64–8:5; 8:24–31; 8:32–41; 8:42–50; 8:51–63; 9:4–11; 9:12–17; Claims 1, 10, 11 and 13.
	G. Holdings may rely upon the testimony of its expert, Ravin Balakrishnan, Ph.D., to explain the technology, the state of the art, the meaning of the claim terms as they would be	'333 Patent File History, 6/16/2009 Non-Final Rejection including at 3–4; 7/21/2009 Notice of Allowance including at 4–5, 6–7.
	understood by a person of skill in the art, and the proper construction of various claim terms. G. Holdings may also rely on Dr. Balakrishnan to respond to Defendants' claim construction proposals or positions of the	Extrinsic Evidence Random House Webster's Unabridged Dictionary (2 nd Edition) (2001) including at 2093
	Defendants' expert(s) and/or witnesses.	Webster's Third New International Dictionary, Unabridged (2002) including at 2517-18
		Defendants may rely on Dr. Robert Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert witnesses
"wherein upon said control device being selectively triggered to issue	Plain and ordinary meaning. No construction necessary.	Plain and ordinary meaning, which requires that the data conveyance operation occurs

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
and [sic] invariable activation	Evidence	when the control device is triggered and
command:	Fig. 2; 6:4-26; 6:43-7:29; 8:24-31; 8:51-9:25;	without waiting for an activation cue
if said switching element is in said	'294 Prosecution History, March 27, 2012	
activated state, a data exchange will	Amendment and Applicant Arguments, at p.	Intrinsic Evidence
be initiated through the	12; '294 Prosecution History, October 26,	'333 Patent, Title; Abstract; 1:9–11; 1:54–
instrumentality of said data	2012 Amendment and Applicant Arguments,	56; 1:61–2:2; 2:4–14; 2:43–45; 2:50–67;
transceiver for exchanging data	at p. 15.	3:6–13; 3:16–21; 3:28–49; 3:54–59; 5:5–32;
between said electronic circuit and an		5:33–39; 6:4–26; 6:42–7:3; 7:4–14; 7:15–29;
external data exchange device;	G. Holdings may rely upon the testimony of	7:41–43; 7:64–8:5; 8:24–31; 8:32–41; 8:42–
if said switching element is in said	its expert, Ravin Balakrishnan, Ph.D., to	50; 8:51–63; 9:4–11; 9:12–17; Claims 1, 10,
inactive state, data will be conveyed	explain the technology, the state of the art, the	11, and 13.
from said electronic circuit to said	meaning of the claim terms as they would be	2222 Data at E'la III ata ara (/1//2000 Na a
user interface device for communicating information to the	understood by a person of skill in the art, and	'333 Patent File History, 6/16/2009 Non- Final Rejection including at 3–4; 7/21/2009
portable electronic device holder."	the proper construction of various claim terms. G. Holdings may also rely on Dr.	Notice of Allowance including at 4–5, 6–7.
(Claim 1)	Balakrishnan to respond to Defendants' claim	Notice of Allowance including at 4–3, 0–7.
(Claim 1)	construction proposals or positions of the	Extrinsic Evidence
	Defendants' expert(s) and/or witnesses.	Random House Webster's Unabridged
	Defendants expert(s) and/or witnesses.	Dictionary (2 nd Edition) (2001) including at
		2093
		Webster's Third New International
		Dictionary, Unabridged (2002) including at
		2517-18
		Defendants may rely on Dr. Robert Akl to
		respond to Plaintiff's claim construction
		positions and any testimony of Plaintiff's
		expert witnesses

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
"a control device operatively linked to said electronic circuit, with an invariable activation command being issued when said control device is selectively triggered" (Claim 1)	Not indefinite. The claim element contains permissible functional limitations that describe the apparatus by reciting its capabilities. <i>MasterMine Software, Inc. v. Microsoft Corp.</i> , 874 F.3d 1307, 1313 (Fed. Cir. 2017).	Indefinite under <i>IPXL Holdings, LLC v. Amazon.com, Inc.</i> , 430 F.3d 1377 (Fed. Cir. 2005). Intrinsic Evidence '333 Patent, Claim 1
	G. Holdings may rely upon the testimony of its expert, Ravin Balakrishnan, Ph.D., to explain the technology, the state of the art, the meaning of the claim terms as they would be understood by a person of skill in the art, and the proper construction of various claim terms. G. Holdings may also rely on Dr. Balakrishnan to respond to Defendants' claim construction proposals or positions of the Defendants' expert(s) and/or witnesses.	Extrinsic Evidence Expert testimony from Dr. Robert Akl Defendants may also rely on Dr. Robert Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert witnesses
"wherein upon said control device being selectively triggered to issue and [sic] invariable activation command" (Claim 1)	Not indefinite. The claim element contains permissible functional limitations that describe the apparatus by reciting its capabilities. <i>MasterMine Software, Inc. v. Microsoft Corp.</i> , 874 F.3d 1307, 1313 (Fed. Cir. 2017). "wherein upon said control device being selectively triggered to issue and [sic] invariable activation command" means "wherein upon said control device being selectively triggered to issue an invariable activation command"	Indefinite under IPXL Holdings, LLC v. Amazon.com, Inc., 430 F.3d 1377 (Fed. Cir. 2005). Intrinsic Evidence '333 Patent, Claim 1 Extrinsic Evidence Expert testimony from Dr. Robert Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert witnesses

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
	G. Holdings may rely upon the testimony of	
	its expert, Ravin Balakrishnan, Ph.D., to	
	explain the technology, the state of the art, the	
	meaning of the claim terms as they would be	
	understood by a person of skill in the art, and	
	the proper construction of various claim	
	terms. G. Holdings may also rely on Dr.	
	Balakrishnan to respond to Defendants' claim	
	construction proposals or positions of the	
	Defendants' expert(s) and/or witnesses.	

U.S. Patent No. 9,022,294

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
Order of steps (Claim 12)	Plain and ordinary meaning. No construction	Steps must be performed in the order written
	necessary because there is no particular order	
	of steps recited or required except where	Intrinsic Evidence
	expressly causally limited in the claim.	'294 Patent, Title; Abstract; 1:16–18; 1:61–
		63; 2:1–9; 2:12–21; 2:50–52; 2:57–62; 2:66–
	Evidence	3:8; 3:14–29; 3:35–55; 3:60–65; 4:4–6;
	Claim 12; Fig. 1; Fig. 3; Fig. 4; 9:28-18:59;	4:15–23; 4:27–38; 5:1–5; 5:8–10; 5:13–24;
	'294 Prosecution History, March 27, 2012	5:33–36; 5:46–53; 5:56–67; 6:8–29; 8:29–
	Amendment and Applicant Arguments, at p.	56: 9:28–49; 9:65–10:6; 10:7–13; 10:14–20;
	12; '294 Prosecution History, October 26,	10:26–36; 10:37–51; 10:63–65; 11:22–27;
	2012 Amendment and Applicant Arguments,	11:46–52; 11:54–63; 11:64–12:5; 12:6–18;
	at p. 15.	12:26–33; 12:34–39; 14:53–59; 14:60–
		15:28; 15:29–33; 16:24–37; 16:66–17:14;
	G. Holdings may rely upon the testimony of	17:18–32; 17:37–51; 18:7–14; Claims 1, 10,
	its expert, Ravin Balakrishnan, Ph.D., to	11, 12, and 19.
	explain the technology, the state of the art, the	
	meaning of the claim terms as they would be	'294 Patent File History, 3/27/2012 Applicant
	understood by a person of skill in the art, and	Arguments including at 11–13; 10/26/2012
	the proper construction of various claim	Applicant Arguments including at 13, 15–16.
	terms. G. Holdings may also rely on Dr.	
	Balakrishnan to respond to Defendants' claim	Extrinsic Evidence
	construction proposals or positions of the	Random House Webster's Unabridged
	Defendants' expert(s) and/or witnesses.	Dictionary (2 nd Edition) (2001) including at
		2093
		William William I and the state of the state
		Webster's Third New International
		Dictionary Unabridged (2002) including at
		2517-18

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
		Defendants may rely on Dr. Robert Akl to
		respond to Plaintiff's claim construction
		positions and any testimony of Plaintiff's
		expert witnesses
"a data conveyance switching	No construction necessary. Alternatively,	Governed by 35 U.S.C. § 112(6)
element said switching element	"data conveyance switching element" means	3 (0)
being assigned a first state upon an	"hardware connected to and/or software	Indefinite due to absence of corresponding
activation cue having been received	running on an electronic circuit that provides	algorithm in the specification under 35
by said cue receiver, and being	switching functionality to enter into a	U.S.C. §§ 112(2), 112(6).
assigned a second state when no	different state for conveying data."	
activation cue was received by said	N	<u>Function</u> : being assigned a first state upon an
cue receiver" (Claim 1)	Not governed by 35 U.S.C. § 112, ¶ 6.	activation cue having been received by said cue receiver, and being assigned a second
	To the extent the Court determines the phrase	state when no activation cue was received by
	is governed by 35 U.S.C. § 112, ¶ 6:	said cue receiver
		Sala sus issuitoi
	Structure: hardware connected to and/or	Structure: a decisional logical circuit or a
	software running on an electronic circuit	series of instructions programmed onto a
		microchip or a processor/general purpose
	Function: provides switching functionality to	computer/microcontroller
	enter into a different state for conveying data	A1 '41 XI
	Evidence	Algorithm: None
	Fig. 2; Fig. 4; 9:28-49; 9:65-10:51; 11:46-53;	OR
	12:6-47; 13:50-60; 14:53-59; 15:4-41; 16:24-	
	46; 16:66-17:17; '294 Prosecution History,	"data conveyance switching element" shall
	March 27, 2012 Amendment and Applicant	be construed to mean "element that changes
	Arguments, at p. 12; '294 Prosecution	between two alternate data conveyance
	History, October 26, 2012 Amendment and	states"
	Applicant Arguments, at p. 15.	
		<u>Intrinsic Evidence</u>

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
	G. Holdings may rely upon the testimony of	'294 Patent, Abstract; FIGS. 1–4; 2:4–21;
	its expert, Ravin Balakrishnan, Ph.D., to	2:35–41; 2:56–3:8; 3:35–37; 3:42–55; 3:60–
	explain the technology, the state of the art, the	65; 4:18–38; 4:44–53; 5:48–67; 6:8–29;
	meaning of the claim terms as they would be	7:46–53; 9:29–41; 9:42–50; 9:65–10:6;
	understood by a person of skill in the art, and	10:7–25; 10:46–51; 11:46–53; 12:6–18;
	the proper construction of various claim	12:26–33; 12:34–47; 13:50–60; 14:18–26;
	terms. G. Holdings may also rely on Dr.	14:53–59; 15:4–13; 15:19–28; 15:29–41;
	Balakrishnan to respond to Defendants' claim	16:30–37; 17:5–17; 17:18–26; Claims 1, 5,
	construction proposals or positions of the	6, 7, 11, 12, and 19.
	Defendants' expert(s) and/or witnesses.	
		'294 Patent File History, 1/11/2012 Non-
		Final Rejection including at 2–3, 6–8;
		4/30/2012 Final Rejection including at 2–4,
		9–10; 10/26/2012 Applicant Arguments
		including at 15–16; 12/8/2014 Applicant
		Arguments including at 15–16.
		Extrinsic Evidence
		Random House Webster's Unabridged
		Dictionary (2 nd Edition) (2001) including at
		1924
		Webster's Third New International
		Dictionary, Unabridged (2002) including at
		2313
		McCorre IVII Distingues of Colonelic
		McGraw-Hill Dictionary of Scientific and
		Technical Terms (6 th Edition) (2003)
		including at 2083
		Migragoft Interpot & Nativariling Distinguis
		Microsoft Internet & Networking Dictionary
		(2003) including at 246

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
		Expert testimony from Dr. Robert Akl Defendants may also rely on Dr. Robert Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert witnesses
"a data conveyance switching elementcapable of being in either one of a first and a second stateif an activation cue is received at said cue receiver, assigning said first state to said switching element, while if no activation cue is received at said cue receiver, assigning said second state to said switching element" (Claim 12)	No construction necessary. Alternatively, "data conveyance switching element" means "hardware connected to and/or software running on an electronic circuit that provides switching functionality to enter into a different state for conveying data." Not governed by 35 U.S.C. § 112, ¶ 6. To the extent the Court determines the phrase is governed by 35 U.S.C. § 112, ¶ 6: Structure: hardware connected to and/or software running on an electronic circuit Function: provides switching functionality to enter into a different state for conveying data Evidence Fig. 2; Fig. 4; 9:28-49; 9:65-10:51; 11:46-53; 12:6-47; 13:50-60; 14:53-59; 15:4-41; 16:24-46; 16:66-17:17; '294 Prosecution History, March 27, 2012 Amendment and Applicant Arguments, at p. 12; '294 Prosecution	Governed by 35 U.S.C. § 112(6) Indefinite due to absence of corresponding algorithm in the specification under 35 U.S.C. §§ 112(2), 112(6). Function: being in either one of a first and a second state and, if an activation cue is received at said cue receiver, assigning said first state to said switching element, while if no activation cue is received at said cue receiver, assigning said second state to said switching element Structure: a decisional logical circuit or a series of instructions programmed onto a microchip or a processor/general purpose computer/microcontroller Algorithm: None OR

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
	History, October 26, 2012 Amendment and	"data conveyance switching element" shall
	Applicant Arguments, at p. 15.	be construed to mean "element that changes
		between two alternate data conveyance
	G. Holdings may rely upon the testimony of	states"
	its expert, Ravin Balakrishnan, Ph.D., to	
	explain the technology, the state of the art, the	Intrinsic Evidence
	meaning of the claim terms as they would be	'294 Patent, Abstract; FIGS. 1–4; 2:4–21;
	understood by a person of skill in the art, and	2:35–41; 2:56–3:8; 3:35–37; 3:42–55; 3:60–
	the proper construction of various claim	65; 4:18–38; 4:44–53; 5:48–67; 6:8–29;
	terms. G. Holdings may also rely on Dr.	7:46–53; 9:29–41; 9:42–50; 9:65–10:6;
	Balakrishnan to respond to Defendants' claim	10:7–25; 10:46–51; 11:46–53; 12:6–18;
	construction proposals or positions of the	12:26–33; 12:34–47; 13:50–60; 14:18–26;
	Defendants' expert(s) and/or witnesses.	14:53–59; 15:4–13; 15:19–28; 15:29–41;
		16:30–37; 17:5–17; 17:18–26; Claims 1, 5,
		6, 7, 11, 12, and 19.
		'294 Patent File History, 1/11/2012 Non-
		Final Rejection including at 2–3, 6–8;
		4/30/2012 Final Rejection including at 2–4,
		9–10; 10/26/2012 Applicant Arguments
		including at 15–16; 12/8/2014 Applicant
		Arguments including at 15–16.
		<i>5 5</i>
		Extrinsic Evidence
		Random House Webster's Unabridged
		Dictionary (2 nd Edition) (2001) including at
		1924
		Webster's Third New International
		Dictionary, Unabridged (2002) including at
		2313

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
		McGraw-Hill Dictionary of Scientific and Technical Terms (6 th Edition) (2003) including at 2083
		Microsoft Internet & Networking Dictionary (2003) including at 246
		Expert testimony from Dr. Robert Akl
		Defendants may also rely on Dr. Robert Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert witnesses
"data exchange device" (Claims 1, 8, 12, and 16)	No construction necessary. Not governed by 35 U.S.C. § 112, ¶ 6.	Governed by 35 U.S.C. § 112(6)
,	0 / II	Function: exchanging data
	To the extent the Court determines the phrase	
	is governed by 35 U.S.C. § 112, ¶ 6:	Structure: an electronic circuit and a data transceiver able to cooperate with a
	Structure: external data exchange device	transceiver, including a portable electronic
		device, a computer, and an interface machine
	Function: communicates with the portable	such as an automatic teller machine
	electronic device and provide data upload and/or download	OR
	Evidence	"data exchange device" shall be construed to
	Fig. 1; Fig. 3; Fig. 4; 7:37-41; 9:1-27; 10:14-18:59	mean "an apparatus that sends and receives data"
	G. Holdings may rely upon the testimony of	Intrinsic Evidence
	its expert, Ravin Balakrishnan, Ph.D., to	

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
	explain the technology, the state of the art, the	'294 Patent, Abstract; FIGS. 1-4; 2:4-21;
	meaning of the claim terms as they would be	2:42–3:8; 3:29–55; 3:56–59; 4:7–38; 4:54–
	understood by a person of skill in the art, and	57; 5:25–67; 6:8–29; 6:30–38; 6:46–55;
	the proper construction of various claim	6:59–63; 7:12–32; 7:36–41; 9:1–16; 9:22–
	terms. G. Holdings may also rely on Dr.	24; 10:7–25; 10:33–36; 10:37–46; 10:57–63;
	Balakrishnan to respond to Defendants' claim	11:10–53; 11:64–12:5; 12:6–18; 12:19–25;
	construction proposals or positions of the	12:34–47; 12:48–13:11; 13:12–24; 13:25–
	Defendants' expert(s) and/or witnesses.	41; 14:27–30; 14:53–59; 14:60–15:3; 15:19–
		28; 15:55–16:2; 16:11–23; 16:30–46; 16:47–
		56; 58–65; 17:5–17; 17:27–32; 17:37–51; 17:65–18:2; 18:41–59; Claims 1, 8, 10, 11,
		17.03–18.2, 18.41–39, Claims 1, 8, 10, 11, 12, 13, 16, and 19.
		12, 13, 10, and 17.
		'294 Patent File History, 12/8/2014
		Applicant Arguments including at 15–19.
		Extrinsic Evidence
		Random House Webster's Unabridged
		Dictionary (2 nd Edition) (2001) including at
		675
		XX 1
		Webster's Third New International
		Dictionary, Unabridged (2002) including at 792
		192
		Expert testimony from Dr. Robert Akl
		Zapar azamonj nom za neodivrim
		Defendants may also rely on Dr. Robert Akl
		to respond to Plaintiff's claim construction
		positions and any testimony of Plaintiff's
		expert witnesses

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
"invariable activation command"	"a state-dependent command that is issued in	"a command initiating one of two alternate
(Claims 1, 10, 12, and 18)	response to the control device input"	data conveyance operations"
	Evidence 8:29-63; 10:26-11:9; 11:54-12:18; 15:14-18; 16:24-46; 16:66-18:59; '294 Prosecution History, March 27, 2012 Amendment and Applicant Arguments, at p. 12; '294 Prosecution History, October 26, 2012 Amendment and Applicant Arguments, at p. 15. G. Holdings may rely upon the testimony of its expert, Ravin Balakrishnan, Ph.D., to explain the technology, the state of the art, the meaning of the claim terms as they would be understood by a person of skill in the art, and the proper construction of various claim terms. G. Holdings may also rely on Dr. Balakrishnan to respond to Defendants' claim construction proposals or positions of the Defendants' expert(s) and/or witnesses.	Intrinsic Evidence '294 Patent, Title; Abstract; 1:16–18; 1:47– 52; 1:61–63; 2:12–21; 2:50–52; 2:66–3:8; 3:14–16; 3:23–29; 3:45–55; 4:4–6; 4:27–38; 5:1–3; 5:13–24; 5:33–36; 5:56–67; 6:20–29; 7:4–8; 8:29–36; 8:57–63; 9:54–10:4; 10:26– 36; 10:37–51; 10:63–11:9; 11:54–63; 12:6– 18; 15:14–18; 16:24–37; 16:66–17:14; 17:18–32; 17:33–44; 18:14–40; Claims 1, 10, 11, 12, 18, and 19 '294 Patent File History, 3/27/2012 Applicant Arguments including at 11–13; 10/26/2012 Applicant Arguments including at 1, 13–16; 6/6/2014 Non-Final Rejection including at 3; 12/8/2014 Applicant Arguments including at 15–16. Extrinsic Evidence Random House Webster's Unabridged Dictionary (2 nd Edition) (2001) including at 1003 Webster's Third New International Dictionary Unabridged (2002) including at 1188 Defendants may rely on Dr. Robert Akl to respond to Plaintiff's claim construction

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
		positions and any testimony of Plaintiff's
		expert witnesses
"upon" (Claims 1 and 10)	Plain and ordinary meaning. No construction	Plain and ordinary meaning (i.e., "when")
	necessary	
		Intrinsic Evidence
	Evidence	'294 Patent, Title; Abstract; 1:16–18; 1:61–
	Fig. 1; Fig. 3; Fig. 4; 9:28-18:59; '294	63; 2:1–9; 2:12–21; 2:50–52; 2:57–62; 2:66–
	Prosecution History, March 27, 2012	3:8; 3:14–29; 3:35–55; 3:60–65; 4:4–6;
	Amendment and Applicant Arguments, at p.	4:15–23; 4:27–38; 5:1–5; 5:8–10; 5:13–24;
	12; '294 Prosecution History, October 26,	5:33–36; 5:46–53; 5:56–67; 6:8–29; 8:29–
	2012 Amendment and Applicant Arguments,	56: 9:28–49; 9:65–10:6; 10:7–13; 10:14–20;
	at p. 15.	10:26–36; 10:37–51; 10:63–65; 11:22–27;
		11:46–52; 11:54–63; 11:64–12:5; 12:6–18;
	G. Holdings may rely upon the testimony of	12:26–33; 12:34–39; 14:53–59; 14:60–
	its expert, Ravin Balakrishnan, Ph.D., to	15:28; 15:29–33; 16:24–37; 16:66–17:14;
	explain the technology, the state of the art, the	17:18–32; 17:37–51; 18:7–14; Claims 1, 10,
	meaning of the claim terms as they would be	11, 12, and 19.
	understood by a person of skill in the art, and	2004 D 4 4 F'1 11' 4 2/07/2012 A 1' 4
	the proper construction of various claim	'294 Patent File History, 3/27/2012 Applicant
	terms. G. Holdings may also rely on Dr.	Arguments including at 11–13; 10/26/2012
	Balakrishnan to respond to Defendants' claim	Applicant Arguments including at 13, 15–16.
	construction proposals or positions of the	Extuincia Exidence
	Defendants' expert(s) and/or witnesses.	Extrinsic Evidence Random House Webster's Unabridged
		Dictionary (2 nd Edition) (2001) including at
		2093
		2073
		Webster's Third New International
		Dictionary, Unabridged (2002) including at
		2517-18
		2017 10
	1	

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
		Defendants may rely on Dr. Robert Akl to
		respond to Plaintiff's claim construction
		positions and any testimony of Plaintiff's
		expert witnesses
"wherein upon said control device	Plain and ordinary meaning. No construction	Plain and ordinary meaning, which requires
being selectively triggered by the	necessary	that the data conveyance operation occurs
user to issue said invariable	7	when the control device is triggered and
activation command:	Evidence	without waiting for an activation cue
if said switching element is in said	Fig. 2; Fig. 4; 9:28-49; 9:65-10:51; 11:46-53;	T / 1 T 11
first state, a first data conveyance	12:6-47; 13:50-60; 14:53-59; 15:4-41; 16:24-	Intrinsic Evidence
operation will be initiated through the	46; 16:66-17:17; '294 Prosecution History,	'294 Patent, Title; Abstract; 1:16–18; 1:61–
instrumentality of said first data	March 27, 2012 Amendment and Applicant	63; 2:1–9; 2:12–21; 2:50–52; 2:57–62; 2:66–
transceiver for sending data from said	Arguments, at p. 12; '294 Prosecution	3:8; 3:14–29; 3:35–55; 3:60–65; 4:4–6;
electronic circuit to the first external	History, October 26, 2012 Amendment and	4:15–23; 4:27–38; 5:1–5; 5:8–10; 5:13–24;
data exchange device over said first communication link; and	Applicant Arguments, at p. 15.	5:33–36; 5:46–53; 5:56–67; 6:8–29; 8:29–
if said switching element is in said	C. Haldings may palv your the testiment of	56: 9:28–49; 9:65–10:6; 10:7–13; 10:14–20; 10:26–36; 10:37–51; 10:63–65; 11:22–27;
second state, a second data	G. Holdings may rely upon the testimony of its expert, Ravin Balakrishnan, Ph.D., to	11:46–52; 11:54–63; 11:64–12:5; 12:6–18;
conveyance operation will be	explain the technology, the state of the art, the	12:26–33; 12:34–39; 14:53–59; 14:60–
initiated through the instrumentality	meaning of the claim terms as they would be	15:28; 15:29–33; 16:24–37; 16:66–17:14;
of said second data transceiver for	understood by a person of skill in the art, and	17:18–32; 17:37–51; 18:7–14; Claims 1, 10,
sending data from said electronic	the proper construction of various claim	11, 12, and 19.
circuit to the second external data	terms. G. Holdings may also rely on Dr.	11, 12, and 17.
exchange device over said second	Balakrishnan to respond to Defendants' claim	'294 Patent File History, 3/27/2012 Applicant
communication link." (Claim 1)	construction proposals or positions of the	Arguments including at 11–13; 10/26/2012
Cimilian (Cimilian)	Defendants' expert(s) and/or witnesses.	Applicant Arguments including at 13, 15–16.
	Defendants experies and or without	Tippineum Tingamento metading at 13, 13-10.
		Extrinsic Evidence
		Random House Webster's Unabridged
		Dictionary (2 nd Edition) (2001) including at
		2093

"wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if an activation cue was received by said cue receiver, said electronic circuit will accomplish said first data transceiver for transmitting data through said first data transceiver; and if no activation cue was received by said cue receiver, said electronic circuit will accomplish said first data transceiver; and if no activation cue was received by said cue receiver, said electronic circuit will accomplish said first data transceiver; and if no activation cue was received by said cue receiver, said electronic circuit will accomplish said second data conveyance operation to convey deta transceiver; and if no activation cue was received by said cue receiver, said electronic circuit will accomplish said second data conveyance operation to convey deta transceiver; and if no activation cue was received by said cue receiver, said electronic circuit will accomplish said second data conveyance operation to convey deta transceiver; and if no activation cue was received by said cue receiver, said electronic circuit will accomplish said second data conveyance operation to convey deta transceiver; and if no activation cue was received by said cue receiver, said electronic circuit will accomplish said second data conveyance operation to convey deta the data conveyance operation to convey deta decrensic circuit will accomplish said first data transceiver for transmitting data through said first data transceiver; and if no activation cue was received by said cue received by said cue receiver, said electronic circuit will accomplish said second data conveyance operation to convey deta decrensic devitor verticates ver	Claim Term	Plaintiff's Construction and Evidence Defend	ants' Construction and Evidence
"wherein upon said control device being selectively triggered by the user to issue said invariable activation command: if an activation cue was received by said cue receiver, said electronic circuit will accomplish said first data from said electronic circuit will accomplish said first data through said first data through said first data transceiver; and if no activation cue was received by said cue receiver, said electronic circuit to said data conveyance operation to convey data first data through said first data transceiver; and if no activation cue was received by said cue receiver, said electronic circuit will accomplish said second data conveyance operation to convey data from said electronic circuit to said second data transceiver for transmitting data conveyance operation to convey data from said electronic circuit to said second data transceiver for the said second data transceiver for transmitting data conveyance operation to convey data from said electronic circuit to said second data transceiver for the said ordinary meaning. No construction necessary. Plain and ordinary meaning. No construction mecessary. Plain and ordinary meaning. No construction mecessary. Plain and ordinary that the data conve when the control of without waiting for 12:6-47; 13:50-60; 14:53-59; 15:4-41; 16:24-46; 16:66-17:17; '294 Prosecution History, October 26, 2012 Amendment and Applicant Arguments, at p. 15. Signature that the data conve when the control of without waiting for 294 Patent, Title, 63; 2:1-9; 2:12-2:3:8; 3:4-29; 3:35-3-3; 5:46-53; 13:4-29; 3:35-3-3-3; 5:46-53; 13:4-29; 3:35-3-3-3; 5:46-53; 13:4-29; 3:35-3-3-3-3; 5:46-53; 13:4-29; 3:35-3-3-3-3-3-3-3-3-3-3-3-3-3-3-3-3-3-3		Dictional	s Third New International ry, Unabridged (2002) including at
being selectively triggered by the user to issue said invariable activation command: if an activation cue was received by said cue receiver, said electronic circuit will accomplish said first data from said electronic circuit to said first data through said first data through said first data transceiver; and if no activation cue was received by said cue receiver, said electronic circuit will accomplish said second data conveyance operation to convey data from said electronic circuit to said if no activation cue was received by said cue receiver, said electronic circuit to said said second data transceiver for transmitting data through said first data through said first data through said first data through said first data through said second data conveyance operation to convey data from said electronic circuit to said second data transceiver for the proper construction of various claim that the data convey when the control of without waiting for vibration without waiting for vibration to vibration the control of without waiting for vibration. The proper construction History, October 294 Prosecution History, October 26, 2012 Amendment and Applicant Arguments, at p. 12; '294 Prosecution History, October 26, 2012 Amendment and Applicant Arguments, at p. 15. G. Holdings may rely upon the testimony of its expert, Ravin Balakrishnan, Ph.D., to explain the technology, the state of the art, the meaning of the claim terms as they would be understood by a person of skill in the art, and the proper construction of various claim 11, 12, and 19.		respond positions	ts may rely on Dr. Robert Akl to to Plaintiff's claim construction and any testimony of Plaintiff's tnesses
data transceiver." (Claim 10) Balakrishnan to respond to Defendants' claim 294 Patent File H	being selectively triggered by the user to issue said invariable activation command: if an activation cue was received by said cue receiver, said electronic circuit will accomplish said first data conveyance operation to convey data from said electronic circuit to said first data transceiver for transmitting data through said first data transceiver; and if no activation cue was received by said cue receiver, said electronic circuit will accomplish said second data conveyance operation to convey data from said electronic circuit to said second data transceiver for transmitting data through said second	Evidence Fig. 2; Fig. 4; 9:28-49; 9:65-10:51; 11:46-53; 12:6-47; 13:50-60; 14:53-59; 15:4-41; 16:24-46; 16:66-17:17; '294 Prosecution History, March 27, 2012 Amendment and Applicant Arguments, at p. 12; '294 Prosecution History, October 26, 2012 Amendment and Applicant Applicant Arguments, at p. 15. G. Holdings may rely upon the testimony of its expert, Ravin Balakrishnan, Ph.D., to explain the technology, the state of the art, the meaning of the claim terms as they would be understood by a person of skill in the art, and the proper construction of various claim terms. G. Holdings may also rely on Dr. Balakrishnan to respond to Defendants' claim '294 Pater '294	ent, Title; Abstract; 1:16–18; 1:61– 0; 2:12–21; 2:50–52; 2:57–62; 2:66– 29; 3:35–55; 3:60–65; 4:4–6; 4:27–38; 5:1–5; 5:8–10; 5:13–24; 5:46–53; 5:56–67; 6:8–29; 8:29– 49; 9:65–10:6; 10:7–13; 10:14–20; 0; 10:37–51; 10:63–65; 11:22–27; 11:54–63; 11:64–12:5; 12:6–18; 12:34–39; 14:53–59; 14:60– 12:29–33; 16:24–37; 16:66–17:14; 13:17:37–51; 18:7–14; Claims 1, 10,

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
		Extrinsic Evidence Random House Webster's Unabridged Dictionary (2 nd Edition) (2001) including at 2093 Webster's Third New International Dictionary, Unabridged (2002) including at 2517-18 Defendants may rely on Dr. Robert Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert witnesses
"conveyed toward a close proximity" (Claims 8 and 16)	Plain and ordinary meaning. No construction necessary Evidence 11:10-63; 12:48-13:41; 15:55-63; 16:11-46; 18:7-59 G. Holdings may rely upon the testimony of its expert, Ravin Balakrishnan, Ph.D., to explain the technology, the state of the art, the meaning of the claim terms as they would be understood by a person of skill in the art, and the proper construction of various claim terms. G. Holdings may also rely on Dr. Balakrishnan to respond to Defendants' claim construction proposals or positions of the Defendants' expert(s) and/or witnesses.	Indefinite Intrinsic Evidence '294 Patent 13:33–41; 15:55–63; 18:41–59 Extrinsic Evidence Expert testimony from Dr. Robert Akl Defendants may also rely on Dr. Robert Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert witnesses

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
"a user-triggered control device operatively linked to said electronic circuit, said user-triggered control	Not indefinite. The claim element contains permissible functional limitations that describe the apparatus by reciting its	Indefinite under <i>IPXL Holdings</i> , <i>LLC v</i> . <i>Amazon.com</i> , <i>Inc.</i> , 430 F.3d 1377 (Fed. Cir. 2005).
device configured to be operated by a user via one of a button, a keypad, a tactile screen, and a biometric parameter detector, and after being	capabilities. <i>MasterMine Software, Inc. v. Microsoft Corp.</i> , 874 F.3d 1307, 1313 (Fed. Cir. 2017).	Intrinsic Evidence '294 Patent Claim 1
operated issue an invariable activation command, with said invariable activation command being	G. Holdings may rely upon the testimony of its expert, Ravin Balakrishnan, Ph.D., to explain the technology, the state of the art, the	Extrinsic Evidence Expert testimony from Dr. Robert Akl
issued when said control device is selectively triggered by the user" (Claim 1)	meaning of the claim terms as they would be understood by a person of skill in the art, and the proper construction of various claim terms. G. Holdings may also rely on Dr. Balakrishnan to respond to Defendants' claim	Defendants may also rely on Dr. Robert Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert witnesses
	construction proposals or positions of the Defendants' expert(s) and/or witnesses.	
"a user-triggered control device operatively linked to said electronic circuit, said user-triggered control device configured to be operated by a	Not indefinite. The claim element contains permissible functional limitations that describe the apparatus by reciting its capabilities. <i>MasterMine Software, Inc. v.</i>	Indefinite under <i>IPXL Holdings</i> , <i>LLC v</i> . <i>Amazon.com</i> , <i>Inc.</i> , 430 F.3d 1377 (Fed. Cir. 2005).
user via one of a button, a keypad, a tactile screen, and a biometric parameter detector, and after being	Microsoft Corp., 874 F.3d 1307, 1313 (Fed. Cir. 2017).	Intrinsic Evidence '294 Patent Claim 10
operated issue an invariable activation command, with said invariable activation command being	G. Holdings may rely upon the testimony of its expert, Ravin Balakrishnan, Ph.D., to explain the technology, the state of the art, the	Extrinsic Evidence Expert testimony from Dr. Robert Akl
issued when said control device is triggered by the user" (claim 10)	meaning of the claim terms as they would be understood by a person of skill in the art, and the proper construction of various claim terms. G. Holdings may also rely on Dr. Balakrishnan to respond to Defendants' claim	Defendants may also rely on Dr. Robert Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert witnesses

Claim Term	Plaintiff's Construction and Evidence	Defendants' Construction and Evidence
	construction proposals or positions of the Defendants' expert(s) and/or witnesses.	
"wherein upon said control device being selectively triggered by the user to issue said invariable activation command" (Claims 1 and 10)	Not indefinite. The claim element contains permissible functional limitations that describe the apparatus by reciting its capabilities. <i>MasterMine Software, Inc. v. Microsoft Corp.</i> , 874 F.3d 1307, 1313 (Fed. Cir. 2017).	Indefinite under <i>IPXL Holdings</i> , <i>LLC v</i> . <i>Amazon.com</i> , <i>Inc.</i> , 430 F.3d 1377 (Fed. Cir. 2005). Intrinsic Evidence '294 Patent Claims 1 and 10
	G. Holdings may rely upon the testimony of its expert, Ravin Balakrishnan, Ph.D., to explain the technology, the state of the art, the meaning of the claim terms as they would be understood by a person of skill in the art, and the proper construction of various claim terms. G. Holdings may also rely on Dr. Balakrishnan to respond to Defendants' claim construction proposals or positions of the Defendants' expert(s) and/or witnesses.	Extrinsic Evidence Expert testimony from Dr. Robert Akl Defendants may also rely on Dr. Robert Akl to respond to Plaintiff's claim construction positions and any testimony of Plaintiff's expert witnesses